

Page 1 of 2

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2007-0445-MWD-E    **TCEQ ID:** RN102342722    **CASE NO.:** 33059  
**RESPONDENT NAME:** Mallard Point WWTP, LLC

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Mallard Point Waste Water Treatment Plant, located 8,650 feet north and 2,000 feet west of the intersection of Farm-to-Market Road 1564 and U. S. Highway 69 in Hunt County</p> <p><b>TYPE OF OPERATION:</b> Waste water treatment plant</p> <p><b>SMALL BUSINESS:</b>    <input checked="" type="checkbox"/> Yes    <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on September 10, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b> TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Harvey Wilson, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-0321; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. Michael McBrayer, Member, Mallard Point WWTP, LLC, 4712 Deer Valley Lane, Richardson, Texas 75082 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> February 7, 2007</p> <p><b>Date of NOE Relating to this Case:</b> March 7, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation. Two violations were documented.</p> <p><b>WATER</b></p> <p>1) Failure to comply with permit effluent limits [Permit No. WQ0014215001, Effluent Limits and Monitoring Requirments 1 and 6, 30 TEX. ADMIN. CODE § 305.125(a), TEX. WATER CODE § 26.121(a)].</p> <p>2) Failure to submit monitoring results at the intervals specified in the permit. Specifically, there was no data submitted for the daily Flow (MGD) at Outfall 001 for the monitoring periods ending June 30, 2006, July 31, 2006, and August 31, 2006 or the Ammonia Nitrogen daily average (lbs/day and mg/L) at Outfall 001 for the monitoring period ending September 30, 2006 [Permit No. WQ0014215001, Reporting Requirments, 30 TEX. ADMIN. CODE § 305.125(1)].</p>	<p><b>Total Assessed:</b> \$5,130</p> <p><b>Total Deferred:</b> \$1,026  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$4,104</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 15 days after the effective date of this Agreed Order, submit revised Discharge Monitor Reports for the reporting periods ending June 30, 2006, July 31, 2006, August 31, 2006, and September 30, 2006 to include all required parameter data for Outfall 001; and</p> <p>b. Within 30 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of Permit No. WQ0014215001.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 19, 2007

**TCEQ**

**DATES**

Assigned  
PCW

12-Mar-2007  
3-Apr-2007

Screening

23-Mar-2007

EPA Due

## RESPONDENT/FACILITY INFORMATION

Respondent Mallard Point WWTP, LLC  
Reg. Ent. Ref. No. RN102342722  
Facility/Site Region 4-Dallas/Fort Worth

Major/Minor Source Minor

## CASE INFORMATION

Enf./Case ID No. 33059

Docket No. 2007-0445-MWD-E

Media Program(s) Water Quality

Multi-Media

No. of Violations 2

Order Type 1660

Enf. Coordinator Harvey Wilson

EC's Team Enforcement Team 4

Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)**

Subtotal 1 \$3,400

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History**

65% Enhancement

Subtotals 2, 3, & 7 \$2,210

Notes

A 65% enhancement is recommended for having 11 NOVs for self reported violations and 2 NOVs for a similar violation.

**Culpability**

No

0% Enhancement

Subtotal 4 \$0

Notes

The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply**

0% Reduction

Subtotal 5 \$0

Before NOV

NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent does not meet the good faith criteria.

0% Enhancement\*

Subtotal 6 \$0

Total EB Amounts \$268  
Approx. Cost of Compliance \$2,600

\*Capped at the Total EB \$ Amount

### SUM OF SUBTOTALS 1-7

Final Subtotal \$5,610

### OTHER FACTORS AS JUSTICE MAY REQUIRE

-8%

Adjustment -\$480

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Recommended reduction in penalty so that monthly self-reported effluent violations do not overly impact the penalty amount.

Final Penalty Amount \$5,130

### STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$5,130

### DEFERRAL

20%

Reduction

Adjustment -\$1,026

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

### PAYABLE PENALTY

\$4,104

Screening Date 23-Mar-2007

Docket No. 2007-0445-MWD-E

PCW

Respondent Mallard Point WWTP, LLC

Policy Revision 2 (September 2002)

Case ID No. 33059

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN102342722

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	13	65%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 65%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

A 65% enhancement is recommended for having 11 NOVs for self reported violations and 2 NOVs for a similar violation.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 65%

Screening Date 23-Mar-2007

Docket No. 2007-0445-MWD-E

PCW

Respondent Mallard Point WWTP, LLC

Policy Revision 2 (September 2002)

Case ID No. 33059

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN102342722

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Violation Number 1

Rule Cite(s) Permit No. WQ0014215001, Effluent Limits and Monitoring Requirements 1 and 6, 30  
Tex. Admin. Code § 305.125(a), Tex. Water Code § 26.121(a)

Violation Description Failed to comply with permit effluent limits (see attached table).

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix  
Notes

A simplified model was used to evaluate biochemical oxygen demand ("BOD") and Total Suspended Solids to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Daily average Flow, Dissolved Oxygen, and Ammonia Nitrogen ("NH3-N") values were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 3

242 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$3,000

Three quarterly events are recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$262

Violation Final Penalty Total \$4,526

This violation Final Assessed Penalty (adjusted for limits) \$4,526

# Economic Benefit Worksheet

Respondent Mallard Point WWTP, LLC  
Case ID No. 33059  
Reg. Ent. Reference No. RN102342722  
Media Water Quality  
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,500	1-Oct-2005	5-Nov-2007	2.1	\$262	n/a	\$262

Notes for DELAYED costs

The estimated cost for additional oversight and sampling which could have reduced or alleviated the exceedances. The Date Required is the day the noncompliance started. The Final Date is the expected compliance date.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,500

TOTAL

\$262

Screening Date 23-Mar-2007

Docket No. 2007-0445-MWD-E

PCW

Respondent Mallard Point WWTP, LLC

Policy Revision 2 (September 2002)

Case ID No. 33059

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN102342722

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Violation Number 2

Rule Cite(s) Permit No. WQ0014215001, Reporting Requirements, 30 Tex. Admin. Code § 305.125(1)

Violation Description

Failed to submit monitoring results at the intervals specified in the permit. Specifically, there was no data submitted for the daily Flow (MGD) at Outfall 001 for the monitoring periods ending June 30, 2006, July 31, 2006, and August 31, 2006 or the Ammonia Nitrogen daily average (lbs/day and mg/L) at Outfall 001 for the monitoring period ending September 30, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

Greater than 70% of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 4

122 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$400

Four single events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$604

This violation Final Assessed Penalty (adjusted for limits) \$604

# Economic Benefit Worksheet

Respondent Mallard Point WWTP, LLC

Case ID No. 33059

Reg. Ent. Reference No. RN102342722

Media Water Quality

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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## Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$100	20-Jul-2006	5-Nov-2007	1.3	\$6	n/a	\$6
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The estimated additional cost for submitting the monitoring results at the intervals specified in the permit. The Date Required is the day the noncompliance started. The Final Date is the date the respondent returned to compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$6



Mallard Point WWTP, LLC  
 RN102342722  
 2007-0445-MWD-E  
 Effluent Parameter: Permit Limits  
 Violation No. 1

Month/Year	BOD Max Daily Average (concentration) 10 mg/L	BOD Max Single Grab (concentration) 35 mg/L	Total Suspended Solids Daily Average (loading) 2.8 lb/day	Total Suspended Solids Daily Average (concentration) 15 mg/L	Total Suspended Solids Single Grab (concentration) 60 mg/L	Dissolved Oxygen 4.0 Minimum
October 2005	C	C	C	30.12	72	C
November 2005	C	C	C	16.25	C	C
January 2006	52.7	112	5.04	30.25	64	0
February 2006	13.5	C	C	16.75	C	C
March 2006	11.28	C	C	C	C	C
April 2006	14.35	C	C	C	C	C
May 2006	18.625	C	C	C	C	C
June 2006	12.6	41	C	C	C	C



# Compliance History

Customer/Respondent/Owner-Operator:	CN602847345	Mallard Point WWTP, LLC	Classification: AVERAGE	Rating: 2.00
Regulated Entity:	RN102342722	MALLARD POINT WWTP	Classification: AVERAGE	Site Rating: 2.00
ID Number(s):	WASTEWATER	PERMIT	WQ0014215001	
	WASTEWATER	PERMIT	TPDES0123528	
	WASTEWATER	PERMIT	TX0123528	
Location:	8,650 feet north and 2,000 feet west of the intersection of Farm-to-Market Road 1564 and U.s. Highway 69 in Hunt County, Texas		Rating Date: September 01 06 Repeat Violator: NO	
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	April 30, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 30, 2002 to April 30, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Harvey Wilson		Phone:	239-0321

## Site Compliance History Components

- |  |                                   |
|--|-----------------------------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No                                |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | Yes                               |
| 3. If Yes, who is the current owner?   | Mallard Point WWTP, LLC           |
| 4. if Yes, who was/were the prior owner(s)?  | Mallard Point on the Sabine, Inc. |
| 5. When did the change(s) in ownership occur?  | 2/28/2005                         |

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- |    |            |          |
|----|------------|----------|
| 1  | 12/19/2003 | (257712) |
| 2  | 04/20/2005 | (427958) |
| 3  | 04/20/2005 | (427959) |
| 4  | 05/16/2005 | (427960) |
| 5  | 06/16/2005 | (427961) |
| 6  | 07/15/2005 | (447947) |
| 7  | 08/31/2005 | (447949) |
| 8  | 08/31/2005 | (447951) |
| 9  | 09/20/2005 | (447953) |
| 10 | 09/22/2005 | (447940) |
| 11 | 09/22/2005 | (447941) |
| 12 | 09/22/2005 | (447942) |
| 13 | 09/22/2005 | (447943) |
| 14 | 09/22/2005 | (447944) |
| 15 | 09/22/2005 | (447945) |
| 16 | 09/22/2005 | (447946) |
| 17 | 09/22/2005 | (447948) |
| 18 | 09/22/2005 | (447950) |
| 19 | 09/22/2005 | (447952) |

20	09/22/2005	(447954)
21	09/22/2005	(447955)
22	09/22/2005	(447956)
23	09/22/2005	(447957)
24	09/22/2005	(447958)
25	10/17/2005	(493339)
26	11/14/2005	(493340)
27	12/15/2005	(493341)
28	01/13/2006	(493342)
29	02/15/2006	(493337)
30	03/13/2006	(493338)
31	04/14/2006	(506725)
32	05/15/2006	(506726)
33	05/25/2006	(464603)
34	07/14/2006	(528864)
35	08/15/2006	(508745)
36	08/31/2006	(528865)
37	09/15/2006	(528866)
38	03/07/2007	(539774)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	12/18/2003	(257712)		
Self Report?	NO		Classificati	Moderate
Citation:	30 TAC Chapter 317 317.7(e)			
Description:	Failure to secure the facility.			
Self Report?	NO		Classificati	Moderate
Citation:	30 TAC Chapter 30, SubChapter J 30.350(d)			
Rqmt Prov:	PERMIT WQ0014215-001			
Description:	Failure to employ a licensed wastewater operator.			
Self Report?	NO		Classificati	Moderate
Rqmt Prov:	PERMIT WQ0014215-001			
Description:	Failure to submit evidence of legal restrictions prior to construction of the treatment facility.			
Self Report?	NO		Classificati	Moderate
Rqmt Prov:	PERMIT WQ0014215-001			
Description:	Failure to provide written notice forty-five days prior to plant startup or anticipated discharge.			
Self Report?	NO		Classificati	Minor
Citation:	30 TAC Chapter 317 317.4(a)(5)			
Rqmt Prov:	PERMIT WQ0014215-001			
Description:	Failure to provide a generator at the plant site.			
Self Report?	NO		Classificati	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to provide a means for measuring effluent flow.			
Self Report?	YES		Classificati	Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.4			
Rqmt Prov:	PERMIT WQ0014215-001			
Description:	Failure to monitor effluent flow, total chlorine residual (TCR) and dissolved oxygen (DO).			
Self Report?	YES		Classificati	Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.7(c)			
Rqmt Prov:	PERMIT WQ0014215-001			
Description:	Failure to maintain monitoring records required by the permit.			
Date:	07/31/2005	(447949)		
Self Report?	YES		Classificati	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
	TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	08/31/2005	(447951)		
Self Report?	YES		Classificati	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
	TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	09/30/2005	(493339)		

Self Report?	YES	Classificati	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	10/31/2005	(493340)	
Self Report?	YES	Classificati	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	11/30/2005	(493341)	
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	01/31/2006	(493337)	
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	02/28/2006	(493338)	
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	03/31/2006	(506725)	
Self Report?	YES.	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	04/30/2006	(506726)	
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	05/26/2006	(464603)	
Self Report?	NO	Classificatio	Moderate
Citation:	30 TAC Chapter 317 317.7(e)		
Description:	Failure to secure the facility.		
Self Report?	NO	Classificatio	Moderate
Citation:	30 TAC Chapter 30, SubChapter J 30.350(d)		
Rqmt Prov:	PERMIT WQ0014215-001		
Description:	Failure to employ a licensed wastewater operator.		
Self Report?	NO	Classificatio	Minor
Citation:	30 TAC Chapter 317 317.4(a)(5)		
Rqmt Prov:	PERMIT WQ0014215-001		
Description:	Failure to provide a generator at the plant site.		
Self Report?	NO	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to provide a means for measuring effluent flow.		
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.4		
Rqmt Prov:	PERMIT WQ0014215-001		
Description:	Failure to monitor effluent flow, total chlorine residual (TCR) and dissolved oxygen (DO).		
Self Report?	YES.	Classificatio	Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.7(c)		
Rqmt Prov:	PERMIT WQ0014215-001		
Description:	Failure to maintain monitoring records required by the permit.		
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Rqmt Prov:	PERMIT WQ0014215-001		
Description:	Failure to comply with permit limitations.		
Self Report?	YES	Classificatio	Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: PERMIT WQ0014215-001  
Description: Failure to provide noncompliance notification as required.  
Date: 06/30/2006 (528864)

Self Report? YES

Classificatio Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter  
Date: 05/31/2006

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)(G)

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
MALLARD POINT WWTP, LLC  
RN102342722

§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2007-0445-MWD-E

### I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Mallard Point WWTP, LLC ("Mallard Point WWTP") under the authority of TEX. WATER CODE chs. 7 AND 26. The Executive Director of the TCEQ, through the Enforcement Division, and Mallard Point WWTP appear before the Commission and together stipulate that:

1. Mallard Point WWTP owns and operates a waste water treatment plant located 8,650 feet north and 2,000 feet west of the intersection of Farm-to-Market Road 1564 and U. S. Highway 69 in Hunt County, Texas (the "Facility").
2. Mallard Point WWTP has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and Mallard Point WWTP agree that the Commission has jurisdiction to enter this Agreed Order, and that Mallard Point WWTP is subject to the Commission's jurisdiction.
4. Mallard Point WWTP received notice of the violations alleged in Section II ("Allegations") on or about March 12, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mallard Point WWTP of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Five Thousand One Hundred Thirty Dollars (\$5,130) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mallard Point WWTP has paid Four Thousand One Hundred Four Dollars (\$4,104) of the administrative penalty and One Thousand Twenty-Six Dollars (\$1,026) is deferred contingent upon Mallard Point WWTP's timely and satisfactory compliance with all the terms of





this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Mallard Point WWTP fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Mallard Point WWTP to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Mallard Point WWTP have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mallard Point WWTP has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, Mallard Point WWTP is alleged to have:

1. Failed to comply with permit effluent limits, in violation of Permit No. WQ0014215001, Effluent Limits and Monitoring Requirements 1 and 6, 30 TEX. ADMIN. CODE § 305.125(a), TEX. WATER CODE § 26.121(a), as documented during a record review conducted on February 7, 2007 (see table below).

Effluent Parameter: Permit Limits

Month/Year	BOD Max Daily Average (concentration) 10 mg/L	BOD Max Single Grab (concentration) 35 mg/L	Total Suspended Solids Daily Average (loading) 2.8 lb/day	Total Suspended Solids Daily Average (concentration) 15 mg/L	Total Suspended Solids Single Grab (concentration) 60 mg/L	Dissolved Oxygen 4.0 Minimum
October 2005	C	C	C	30.12	72	C
November 2005	C	C	C	16.25	C	C
January 2006	52.7	112	5.04	30.25	64	0
February 2006	13.5	C	C	16.75	C	C
March 2006	11.28	C	C	C	C	C
April 2006	14.35	C	C	C	C	C
May 2006	18.625	C	C	C	C	C
June 2006	12.6	41	C	C	C	C



2. Failed to submit monitoring results at the intervals specified in the permit, in violation of Permit No. WQ0014215001, Reporting Requirements, 30 TEX. ADMIN. CODE § 305.125(1), as documented during a record review conducted on February 7, 2007. Specifically, there was no data submitted for the daily Flow (MGD) at Outfall 001 for the monitoring periods ending June 30, 2006, July 31, 2006, and August 31, 2006 or the Ammonia Nitrogen daily average (lbs/day and mg/L) at Outfall 001 for the monitoring period ending September 30, 2006.

### III. DENIALS

Mallard Point WWTP generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mallard Point WWTP pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mallard Point WWTP's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Mallard Point WWTP, LLC, Docket No. 2007-0445-MWD-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that Mallard Point WWTP shall:
  - a. Within 15 days after the effective date of this Agreed Order, submit revised Discharge Monitor Reports for the reporting periods ending June 30, 2006, July 31, 2006, August 31, 2006, and September 30, 2006 to include all required parameter data for Outfall 001; and
  - b. Within 30 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of Permit No. WQ0014215001. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my



knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2301 Gravel Drive  
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon Mallard Point WWTP. Mallard Point WWTP is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Mallard Point WWTP fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mallard Point WWTP's failure to comply is not a violation of this Agreed Order. Mallard Point WWTP shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mallard Point WWTP shall notify the Executive Director within seven days after Mallard Point WWTP becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mallard Point WWTP shall be made in writing to the Executive Director. Extensions are not effective until Mallard Point WWTP receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Mallard Point WWTP in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.



8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Mallard Point WWTP, or three days after the date on which the Commission mails notice of the Order to Mallard Point WWTP, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

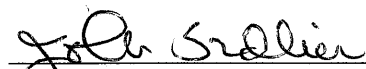




## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
For the Executive Director

10/5/07  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

By: Michael A. McBrayer  
Signature

9-13-7  
Date

Michael A McBrayer  
Name (Printed or typed)  
Authorized Representative of  
Mallard Point WWTP, LLC

Member  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

